

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: CS/SB 354

INTRODUCER: Health Regulation Committee and Senator Dean

SUBJECT: Mobile home and recreational vehicle parks

DATE: January 19, 2010

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Stovall	Wilson	HR	Fav/CS
2. _____	_____	CA	_____
3. _____	_____	HA	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

Please see Section VIII. for Additional Information:

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|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The committee substitute specifies the sections of law within chapter 513, F.S., for which the Department of Health (Department) is responsible for uniformly regulating throughout the state. It establishes a construction review and approval process for construction of a new mobile home park, lodging park, recreational vehicle park, or recreational camp or certain changes to an existing park or camp. The committee substitute authorizes the Department to adopt rules related to temporary operating permits for temporary events at unlicensed locations. The committee substitute establishes standards for separation distances between recreational vehicles and setback distances from the exterior property boundary of recreational vehicle parks. The regulation of mobile home parks, lodging parks, recreational vehicle parks, and recreational camps is expressly preempted to the state. The committee substitute also revises the responsibilities of an operator of a recreational vehicle park related to personal property left on the premises. An additional criminal act is established when a person fails to depart from a recreational vehicle park under certain conditions.

The committee substitute substantially amends the following sections of the Florida Statutes: 513.01; 513.012; 513.014; 513.02; 513.03; 513.045; 513.05; 513.051; 513.054; 513.055; 513.10; 513.112; 513.115; and 513.13.

The committee substitute repeals s. 513.111 of the Florida Statutes.

The committee substitute creates s. 513.1115 of the Florida Statutes.

II. Present Situation:

Mobile home parks,¹ lodging parks, recreational vehicle parks, and recreational camps are regulated and licensed under ch. 513, F.S., and Rule Chapter 64E-15, Florida Administrative Code (F.A.C.) by the Department. Licenses are issued annually by the county health departments. The county health departments provide direct services in the operational aspect of the program through routine inspections, plan reviews, educational programs, and enforcement actions. The objective of this program is to minimize the risk of injury and illness in this residential environment by focusing on a safe drinking water supply, proper sewage disposal, a safe and disease free swimming pool (where provided), and assurances that the establishment is free from garbage, harmful insects, and rodent infestations. Specifically, rules address minimum area requirements for each space, the water supply, sewage disposal, sanitary facilities, plumbing, garbage and refuse disposal, insect and rodent control, recreational camp standards, permits and fees, and owner's and operator's responsibilities.

There are approximately 5,700 mobile home parks, lodging parks, recreational vehicle parks, and recreational camps in Florida.²

Permit fees are set by rule at \$4 per space and cumulatively must not be less than \$100 or more than \$600 annually.³ The statutory range is \$3.50-\$6.50 per space and cumulatively not less than \$50 or more than \$600 annually.

III. Effect of Proposed Changes:

Section 1. Amends s. 513.01, F.S., to revise the definition of "mobile home" and to define "occupancy." The definition of "mobile home" is modified to exclude a structure originally sold as a recreational vehicle. The term "occupancy" is defined to mean the length of time that a recreational vehicle is occupied by a transient guest and not the length of time that such a vehicle is located on the leased recreational site. Part of the current definition of "recreational vehicle" is moved to the definition of "occupancy."

Section 2. Amends s. 513.012, F.S., to specify that the Department is responsible for regulating and enforcing the provisions in ss. 513.01-513.1115, F.S., but not the entire chapter.

Additionally, the committee substitute requires the department to *uniformly* administer and enforce these laws and rules throughout the state.

Section 3. Amends s. 513.014, F.S., to remove a redundant provision that a mobile home park must comply with the laws and rules relating to mobile home parks in ch. 723, F.S.

¹ Mobile home park lot tenancies are subject to ch. 723, F.S., The Florida Mobile Home Act.

² The Department of Health, Division of Environmental Health, Mobile Home and Recreational Vehicle Parks website found at: <<http://www.doh.state.fl.us/environment/community/mobile/index.html>> (Last visited on January 14, 2010).

³ Rule 64E-15.010, F.A.C.

Section 4. Amends s. 513.02, F.S., to require a person who maintains a mobile home park, lodging park, recreational vehicle park, or recreational camp who is going to construct a new park or camp, or change an existing park or camp that requires construction of new sanitary facilities or additional permitted sites to receive a construction review and approval from the Department prior to beginning construction or changes. The Department is required to identify in rule the items required to be submitted and the process of issuing a construction review and approval. The terminology related to a permit and permitting requirements is modified to designate the permit as an *operating* permit. Inconsistent references to transferring permits are eliminated since permits are not transferrable. The committee substitute requires the purchaser of a park or camp to apply for an operating permit within 30 days after the date of sale, rather than before the date of the sale.

Section 5. Amends s. 513.03, F.S., to add information that must be submitted in an application for an operating permit to include the number of buildings and sites set aside for group camping, including barracks, cabins, cottages, and tent spaces. The Department must issue the construction approval or operating permit if it is satisfied, after reviewing the application and conducting an inspection, that the park or camp is not a source of danger to the health of the general public, within the criteria established under this law.

Section 6. Amends s. 513.045, F.S., to clarify language related to the fees imposed for the operating permit and authorize the Department to assess late fees if annual operating permit fees are not paid timely. Obsolete language is repealed inasmuch as rules have been adopted by the Department.

The committee substitute authorizes a person to submit plans related to a proposed park or camp to the Department for review for an assessment of whether the plans meet the requirements of this chapter. A person constructing a new park or camp or adding spaces or renovating an existing park or camp is required to submit the construction plans to the Department for review and approval. (See comment under Related Issues)

Section 7. Amends s. 513.05, F.S., to authorize the Department to adopt rules related to temporary events at unlicensed locations which may require a temporary operating permit. It also clarifies the Department's authority to adopt rules related to reviewing plans that consolidate or expand space or capacity.

Section 8. Amends s. 513.051, F.S., to specify the statutory sections within the chapter that are under the Department's regulatory and permitting authority. A provision is added to assert state preemption for the regulation of mobile home parks, lodging parks, recreational vehicle parks, and recreational camps subject to ss. 513.01-513.1115, F.S., and that every unit of local government is prohibited from taking any action related to the matters and things preempted to the state.

Section 9. Amends s. 513.054, F.S., to clarify that a person who does not obtain an *operating* permit for a mobile home park, lodging park, recreational vehicle park, or recreational camp or refuses to pay the *operating* permit fee commits a misdemeanor of the second degree.

Section 10. Amends s. 513.055, F.S., to clarify that the permit referred to in this section related to the revocation or suspension of a permit applies to an *operating* permit.

Section 11. Amends s. 513.10, F.S., to clarify that a person who maintains or operates a mobile home park, lodging park, recreational vehicle park, or recreational camp without first obtaining an *operating* permit or maintains or operates a park or camp after revocation of the operating permit commits a misdemeanor of the second degree.

Section 12. Repeals s. 513.111, F.S., relating to posting or publishing site rates for a recreational vehicle park that rents by the day or week and the criminal penalties associated with this activity.

Section 13. Creates s. 513.1115, F.S., to require the spacing of recreational vehicles to be maintained at the distances established at the time of the Department's initial approval of the recreational vehicle park or as historically applied by the local government, unless the uniform firesafety standards under s. 633.022, F.S., require otherwise. In addition, this section requires setback distances from the exterior property boundary of a recreational vehicle park to be maintained in accordance with the setback distances applicable when the Department granted approval for the construction of the park.

Section 14. Amends s. 513.112, F.S., to eliminate the requirement that the guest registry of a recreational vehicle park must be made available to the Department for inspection.

Section 15. Amends s. 513.115, F.S., to authorize an operator of a recreational vehicle park to dispose of property belonging to a guest who has vacated the premises without notice to the operator and who has an outstanding account that has been unclaimed for 90 days. An owner of a park is no longer required to provide written notice to any guest or owner of property left at the park prior to disposing of the property; however, the property must be held by the park for 90 days prior to disposal.

Section 16. Amends s. 513.13, F.S., to provide that if an operator of a recreational vehicle park notifies a person to leave the park for a permissible reason, by either posting or personal delivery, in the presence of a law enforcement officer, and the person fails to depart from the park immediately, the person commits a misdemeanor of the second degree. Permissible reasons include: possessing or dealing in controlled substances, disturbing the peace and comfort of other persons, causing harm to the physical park, or failing to pay the rental rate as agreed. Additionally, an operator is not liable for damages to personal property left on the premises by a guest who has been removed from the park or arrested for the failure to leave the park after being notified to leave for a permissible reason.

Section 17. Provides an effective date of July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The committee substitute authorizes fees for the late payment of the annual operating permit fee but does not set the amount of the late fee.

B. Private Sector Impact:

This committee substitute affects parks and camps that will be newly constructed or existing parks or camps that will be expanded; parks and camps that do not submit the required fees in a timely manner; and persons proposing temporary events.

C. Government Sector Impact:

This bill requires the Department to adopt rules. The Department projects this will cost \$4,015 for staff and associated costs.

In addition, the Department estimates it will cost \$67,000 annually for permitting and inspecting temporary events. (Assuming two temporary events per year, per county at a cost of \$500 per event). The bill does not authorize the Department to impose fees to cover these costs related to temporary events.

Local governments are preempted from regulating mobile home parks, lodging parks, recreational vehicle parks, or recreational camps within their local jurisdiction.

VI. Technical Deficiencies:

Lines 314-319 within the newly created s. 513.1115, F.S., specify separation distances between recreational vehicles. It is phrased in such a manner that these distances cannot be altered, unless required to comply with firesafety standards. The mandatory separation distances should be the minimum allowed, as a park owner may wish to expand the separation distances. Also, since the timeframe for the phrase “or as historically applied by the local government” is not specified, a local government may have applied a lesser standard prior to the standards in place when the Department approved the park.

VII. Related Issues:

Section 5 of the bill amends s. 513.045, F.S., relating to fees. The two new provisions in s. 513.045(b)2. and 3., F.S., do not provide for fees or relate to fees. Instead, these subparagraphs authorize and require the submission of a plan for the department to review. If fees are not contemplated for the department's review, these provisions should be moved to a section that is more applicable substantively.

The Department noted in its bill analysis that it currently has no authority to ensure that roads within parks and camps are safe for normal vehicle traffic and emergency vehicles. Without the ability to address roads, access for emergency vehicles can potentially be limited or severely restricted. The Department also noted that it is not authorized to charge fees for temporary operating permits and related inspections.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Regulation Committee on January 19, 2010:

Retains that part of the definition of a recreational vehicle that authorizes it to be tied-down or have other appendages without making it a permanent part of the recreational vehicle site;

- Requires the Department to uniformly administer and enforce the applicable laws and rules throughout the state; and
- Eliminates additional fees for the Department's review of plans for
 - a proposed park or camp,
 - constructing a new park or camp, or
 - additional spaces or renovating an existing park or camp;

B. Amendments:

None.